

## **EXHIBIT D**

**Maria L. Nixon**

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**From:** Thomas Ferlauto <tmf@lawofficetmf.com>  
**Sent:** Tuesday, May 9, 2023 11:01 AM  
**To:** Molshree Gupta  
**Cc:** Maria L. Nixon; Patrick Stockalper  
**Subject:** Re: Assif v County of Los Angeles

Thank you for the status update. However, I note that you still have not provided any alternative date for either deposition of Sergeant Kelly or of COLA. The discovery cut-off is tomorrow. You had previously indicated that you were going to bring a motion to continue dates, but that motion was never brought. Now, you are saying that "we can proceed" with a motion to continue the trial. Frankly, I do not know what your intentions are. Are you or are you not going to bring a motion to continue dates based upon Sergeant Kelly's unavailability? As the record stands, the depositions of Sergeant Kelly and COLA proceeded as notice on April 25 and 26. The witnesses failed to appear, and if necessary I will move to have them both excluded at trial as witnesses.

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LAW OFFICE OF  
THOMAS M. FERLAUTO  
A Professional Law Corporation

Direct Dial 310-849-7554

25201 Paseo de Alicia, Suite 270  
Laguna Hills, CA 92653  
Phone: 949-334-8650  
Facsimile: 949-334-8691

Email: [TMF@lawofficeTMF.com](mailto:TMF@lawofficeTMF.com)  
Website: [www.lawofficeTMF.com](http://www.lawofficeTMF.com)

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On May 8, 2023, at 1:37 PM, Molshree Gupta <[mgupta@kmslegal.com](mailto:mgupta@kmslegal.com)> wrote:

Good afternoon:

Please accept this our comprehensive status re the outstanding deposition issues.

As a preliminary matter, we have heard back from Sgt. Kelly (who is still on medical leave, and was so when his deposition was first noticed on 3/31) and we can proceed with a **Motion for Trial Continuance** with his Declaration in support this week.

**Sgt. Kelly depo:** He will not know until his June 1, 2023 appointment regarding any restrictions on travel to Laguna Hills for his deposition and/or instructions/restrictions as to sitting for an in person deposition.

- Will you agree to proceed with his deposition via Zoom or another virtual platform?
- Also, due to his condition, he may not be able to sit for deposition for prolonged periods – so we may have to break up his depo over more than one session.
  - Please confirm in writing you are amenable to this.

**PMK Depo:** We have identified potential PMKs for most of the categories and are working to hear back regarding the final 3 categories. We are also working on finalizing availability for same. As you know,

- Either I or Maria will provide PMK availability by categories as we obtain it.
- Finally, as to **Category #9**, we will maintain our objection.
  - Please advise whether you would like to meet and confer and/or seek magistrate attention to resolve.

Thanks,

<image001.jpg>

Molshree Gupta

Partner

**KJAR, McKENNA & STOCKALPER, LLP**

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**From:** Thomas Ferlauto <[tmf@lawofficetmf.com](mailto:tmf@lawofficetmf.com)>

**Sent:** Monday, May 8, 2023 9:46 AM

**To:** Patrick Stockalper <[pstockalper@kmslegal.com](mailto:pstockalper@kmslegal.com)>

**Cc:** Molshree Gupta <[mgupta@kmslegal.com](mailto:mgupta@kmslegal.com)>; Maria L. Nixon <[mnixon@kmslegal.com](mailto:mnixon@kmslegal.com)>

**Subject:** Re: Assif v County of Los Angeles

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LAW OFFICE OF  
THOMAS M. FERLAUTO  
A Professional Law Corporation

Direct Dial 310-849-7554

25201 Paseo de Alicia, Suite 270  
Laguna Hills, CA 92653  
Phone: 949-334-8650  
Facsimile: 949-334-8691

Email: [TMF@lawofficeTMF.com](mailto:TMF@lawofficeTMF.com)  
Website: [www.lawofficeTMF.com](http://www.lawofficeTMF.com)

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On May 5, 2023, at 3:07 PM, Patrick Stockalper <[pstockalper@kmslegal.com](mailto:pstockalper@kmslegal.com)> wrote:

Tom:

Molly can give you an update on the deposition situation. As for settlement demand, it would be nice to have by Monday as we have a meeting with the County on Wednesday and as you may know, there is a process involved in getting settlement authority. Appreciate your input.

<image001.jpg>

Patrick Stockalper  
Partner  
**KJAR, McKENNA & STOCKALPER, LLP**  
841 Apollo Street, Suite 100  
El Segundo, California 90245  
424-217-3026 – Main No.  
424-367-0400 – Fax No.  
[pstockalper@kmslegal.com](mailto:pstockalper@kmslegal.com)  
[www.kmslegal.com](http://www.kmslegal.com)

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**From:** Patrick Stockalper <[pstockalper@kmslegal.com](mailto:pstockalper@kmslegal.com)>  
**Sent:** Wednesday, May 3, 2023 9:53 AM  
**To:** Thomas Ferlauto <[tmf@lawofficetmf.com](mailto:tmf@lawofficetmf.com)>  
**Cc:** Molshree Gupta <[mgupta@kmslegal.com](mailto:mgupta@kmslegal.com)>; Maria L. Nixon <[mnixon@kmslegal.com](mailto:mnixon@kmslegal.com)>  
**Subject:** Re: Assif v County of Los Angeles

I am not sure. Molly respond to Tom today please.

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**From:** Thomas Ferlauto <[tmf@lawofficetmf.com](mailto:tmf@lawofficetmf.com)>  
**Sent:** Wednesday, May 3, 2023 9:52:11 AM  
**To:** Patrick Stockalper <[pstockalper@kmslegal.com](mailto:pstockalper@kmslegal.com)>  
**Cc:** Molshree Gupta <[mgupta@kmslegal.com](mailto:mgupta@kmslegal.com)>  
**Subject:** Re: Assif v County of Los Angeles

I will get you a demand, but what is going on?

Sergeant Kelly's deposition was noticed for 4/25 and the County's deposition was noticed for 4/26. Ms. Gupta has claimed that Kelly is on medical leave and unavailable, and she has represented that Defendants were going to bring a motion to extend dates due to the unavailability of the witness. However, the motion was never brought and no alternative dates for depositions were ever provided. The discovery cut-off is now only 7 days away. Your office left me with no choice other than to commence the depositions as noticed on 4/25 and 4/26. The court reporter on both occasions noted Defendants' failure to attend the properly noticed depositions.

On May 3, 2023, at 6:48 AM, Patrick Stockalper  
<[pstockalper@kmslegal.com](mailto:pstockalper@kmslegal.com)> wrote:

Would you be able to get us a settlement demand? We have a Roundtable meeting next Wednesday and the client has asked if we could get a demand by that time to evaluate same. Thank you.

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